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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/564,055 | 01/10/2006 | Kenichi Makino | 277006US6PCT | 5660 |
| 22850 | 7590 | 06/03/2008 | | |
| OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314 | | | EXAMINER CHU, KIM KWOK | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2627 | |
| | | | NOTIFICATION DATE | DELIVERY MODE |
| | | | 06/03/2008 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/564,055 | Applicant(s) MAKINO ET AL. | |
| | Examiner KIM CHU | Art Unit 2627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

2. Claims 1-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Seto et al. (U.S. Publication US2002/0041692).

3. Seto teaches a reproducing apparatus having all of the elements and means as recited in claims 1-5. For example, Seto teaches the following:

(a) with respect to Claim 1, the reproducing apparatus comprising: a contents data recording medium 52 (Fig. 1) in which a plurality of contents data (music) are recorded; environmental variable acquisition means 2 for acquiring environmental variables (traveling locations are environmental variables; Fig. 1; page 2, section 0032); reproduction history storage means 51 for preserving identification information (titles of favorite music) of the reproduced contents data combined with the environmental variables at the time of reproduction (Fig. 1; page 2, section 0025, lines 11-14); and reproduction control means 4 for

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selecting and reproducing contents data from the contents data recording medium based on similarity between environmental variables at present and environmental variables stored in the reproduction history storage means (Fig. 3; page 3, section 39).

(b) with respect to Claim 2, the environmental variables include at least one of location information, time information and environmental information, positioning means to specify the location is provided when the environmental variables include location information (Fig. 3; page 3, section 39); timer means to measure the time is provided when the environmental variables include time information (Fig. 3; time and season are recorded based on the music); and an environmental information sensor (such as speed sensor) to measure the environmental information (traveling status) is provided when the environmental variables include environmental information (Figs. 1 and 3).

(c) with respect to Claim 3, the environmental variables include at least two of location information, time information and environmental information, and the reproduction control means 4 obtains the similarity with respect to any one of location information, time information and environmental information of the environmental variables (Figs. 1 and 7); obtains the similarity with respect to the other information than the one of information when a plurality of similar

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environmental variables based on this similarity exist (Fig. 7); and selects and reproduces the contents data from said contents data recording medium based on this similarity (Fig. 9; step S7).

(d) with respect to Claim 4, attribute information storage means 31 to preserve (input) attribute information (favorite degree) of the contents data (music) associated with identification information (Fig. 3) of the contents data (Fig. 1), wherein when it is judged based on the similarity obtained that no environmental variables of the past similar to environmental variables at present exist (favorite music analysis), the reproduction control means 4 obtains closeness as suitability between environmental variables at present and the attribute information of the contents data, and selects and reproduces the contents data from the contents data recording medium based on the suitability (Fig. 1; music selection).

(e) with respect to Claim 5, when it is judged based on the similarity obtained that no environmental variables of the past similar to environmental variables at present exist (Fig. 9; step S7), the reproduction control means 4 sends environmental variables at present to a service center 41 (Fig. 1), and selects and reproduces the contents data (music) from the contents data recording medium 52 based on identification

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information sent from the service center 41, and the service center 41 includes: storage means (editing unit) to record the attribute information of the contents data associated with the identification information of the contents data and selection control means 41 (music selected in the editing unit) to select the identification information of the contents data judged to be close to the environmental variables based on the suitability between the environmental variables supplied and the attribute information (Figs. 7 and 8), and to send the identification information to the reproduction control means 4 (Figs. 1 and 9).

4. Method claims 6-8 are drawn to the method of using the corresponding apparatus claimed in claims 1, 4 and 5. Therefore method claims 6-8 correspond to apparatus claims 1, 4 and 5 and are rejected for the same reasons of anticipation as used above."

Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tagawa et al. (7,227,071) is pertinent because Tagawa teaches a music search system based on locations.

Harville et al. (7,149,961) is pertinent because Harville teaches a media playback system based on time and location information.

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6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen, can be reached on (571) 272-7579.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

/Kim-Kwok CHU/

Examiner AU2627
May 25, 2008
(571) 272-7585

/HOA T NGUYEN/
Supervisory Patent Examiner, Art Unit 2627
5/26/08